



ILLINOIS DEPARTMENT OF PUBLIC HEALTH  
OFFICE OF HEALTH CARE REGULATION

**LONG TERM CARE FACILITY ADVISORY BOARD MEETING  
November 21, 2019**

**APPROVED MEETING MINUTES**

**I. CALL TO ORDER AND INTRODUCTIONS**

Aimee Isham called to order at 10:01 a.m.

***MEMBERS PRESENT (IN SPFLD OFFICE UNLESS OTHERWISE NOTED):***

Dr. Albert Maurer\*, Karen Christensen\*, Dr. Alma Labunski\* (Bellwood), Candice Moore\* (Bellwood, arrived at 10:29 a.m.), Caroline Chapman\* (Chicago), Mark McCurdy (phone), Kelly Richards (phone), Kevin Taylor (proxy for Patrick Baalke\*), Donna Ginther (proxy for Ron Nunziato\*), Matt Hartman (proxy for Mike Bibo\*)

***\*INDICATES VOTING MEMBER***

***MEMBERS NOT PRESENT:***

Patrick Baalke\*, Ron Nunziato\*, Mike Bibo\*, Dr. Martin Gorbien\*, Dale Simpson, George Bengel

***\*INDICATES VOTING MEMBER***

***IDPH REPRESENTATIVES:***

Erin Conley, Jennifer Uhles, Sean Dailey, Sara Wilcockson, Debra Bryars, George Logan, Aimee Isham, Connie Jensen, Michelle Millard, Allison Nickrent, Laura Vaught, Scott Hemberger, Melinda Snyder

***GUESTS:***

Greg Cox, Ashley Snavelly, Kim Palermo, Eric Lane, Kirk Riva, Matt Werner, Sherri Mitchell, Patrick Hostert

**Quorum established at 10:02 a.m.**

**II. APPROVE MEETING MINUTES**

Corrections needing made to the proposed meeting minutes:

August 15, 2019 – Dr. Labunski was erroneously listed as absent.

October 23, 2019 – page 2, section 300.686(g)(2) risk should be changed to risks (plural).

November 12, 2019 – Date listed as November 15 in error.

Matt Hartman made the formal motion to postpone the voting of the meeting minutes until the next meeting. Karen Christensen seconded that motion. Roll call vote taken with the following members voting yes: Dr. Labunski, Kevin Taylor, Donna Ginther, Dr. Maurer. Caroline Chapman abstained. Motion carried.

**III. MEMBERSHIP UPDATE**

Welcomed Caroline Chapman, attorney, as a new member under the NHCA.

#### **IV. OLD BUSINESS**

##### **A. Bylaws**

- Jennifer Uhles to discuss updated by-laws from August meeting.
- Verification that the meetings are public and are recorded. Question by Matt Hartman if recordings can be released to board members. Past practice has been that the recording is for internal use, to be used for transcription purposes but may be requested through FOIA.
- Question by Matt Hartman if there is a limitation as to how often the bylaws can be amended as there are a couple of things to be reviewed but he wants to discuss with Mr. Bibb first.
- Ms. Isham asked for a motion to vote on the bylaws. Donna Ginther states she prefers to delay this vote as there are so many proxies. Ms. Ginther believes it would be best to have the actual voting members present. Jennifer Uhles reminded proxies that the NHCA gives permission to vote on the members' behalf. No motion made to vote on bylaws. Topic will be tabled until the February meeting.

##### **B. Part 380 Discussion**

Erin Conley asked the board for permission to discuss SMHRF Part 380 rulemaking new business prior to the discussion of Part 300 rulemaking. Donna Ginther moved to reorder the agenda. Kevin Taylor seconded with no one opposing.

- Jennifer Uhles provided background stating the Part 380 rulemaking revision is part of this year's implementation plan amendment in particular with the focus on non-retaliation and appropriate outreach for class members.
- Sean Dailey provided further explanation on the changes – New subsection added under 380.140 Consumer Rights and Choices regarding the poster informing consumers of their right to explore or decline community transition and their right to be free from retaliation. 380.600 was also amended to add g) support services. Section 380.740 surveys and inspections, subsection b) 4) was added regarding posters. Surveyors are to confirm the posters are posted in facilities. The hard deadline of pre-filing with JCAR is by January 1.
- Discussion in regard to 380.600 g) – Kevin Taylor states the reference comes from the legislative finding section of the Act. If you read it, it lists all the services provided. Transitional living is one of the new levels of care defined by the Act. Kevin Taylor takes issue with transitional living – as it seems to refer to transitional living units. Mr. Taylor doesn't believe IDPH has this authority. Furthermore, there are already three separate references in the Act to transitioning (Mr. Taylor circulated three references to transition services in the Act or the Administrative Code). Mr. Taylor asks for subject to be struck as transitional living is a broad term. The recovery and rehab section discuss transition.
- Mr. Taylor asked if the poster is being supplied by the Department. Per Jennifer Uhles, HFS is developing the poster. Kevin Taylor wants uniformity and does not want each agency creating their own version. Mr. Taylor would like to add language that states the person can decline to speak with anybody. Erin Conley asked for electronic copies of what Kevin Taylor passed out.
- Aimee Isham asked for a motion to vote on the SMHRF rules. No motion made. Jennifer Uhles asked if the Board would entertain a motion if we follow Mr. Taylor's suggestion about removing section (g). Mr. Taylor agrees to move forward if the section was struck and the poster references the consumers right to decline to speak with anybody. Donna Ginther seconded Mr. Taylor's motion.

Voting yes – Dr. Maurer, Dr. Labunski, Candace, Matt Hartman and Karen Christensen. Abstaining – Caroline Chapman. Motion carried. The Department will take under advisement the Board's advice of striking Section (g) and language added to the poster.

**C. Combined 300 Discussion –**

- Sara Wilcockson then discussed changes – one thing being added since August meeting and that is the statutory requirement regarding vaccinations (Section 300.1060, page 28). This is existing language that is in the section, the Department modified some of the language to make sure it matches current statutory language. In subsection A, the addition of 'administration of' because that's what the statute says. Similar changes in B and C. The bigger changes are E, F and G. All statutory language except for the reference to where you can find references to CDC-recommended vaccinations for adults, which was added as non-statutory language in subsection E on page 29.
- Discussion regarding referencing federal regulation, federal guidance as we cannot incorporate another state agency rules. This is tactical reference only. Donna Ginther questions 300.110 section e) "rehabilitation center" being struck. An agreement was made that the struck language is to be put back in. Discussion regarding whether unions are required to notify with intent to strike (questioning i), page 14 and the timeline regarding notification, who is notified and how they are notified. Donna Ginther asked for clarification to be added.
- Donna Ginther refers to 300.3210 – Can the facility provide a wristlet to someone who does not fall in to these two categories (physicians order required or a residing resident suffering from Alzheimer's)?
- Donna Ginther requested that the language regarding failure to report abuse or neglect of a resident can result in a class A misdemeanor be added to 300.3240 b) as referenced also in 210 ILCS 30/4.
- Aimee Isham asks for a formal recommendation understanding that all the comments that have been made be taken under advisement. Ms. Isham asked for a motion.
- Donna Ginther moved the rules to be accepted pending the following: rehabilitation center language be added, strike notice language be removed & delayed (placed on hold pending further research), class A misdemeanor language added, and the wristlet language added to include all. 2<sup>nd</sup> from Matt Hartman. All board members voting yes except Caroline Chapman, who abstained. Motion carried.

**D. Discussion regarding 300.686 –**

- Dr. Maurer questioned the definition of a licensed medical professional (requesting a definition be added) in section g)1) and the requirement of the surrogate decision maker in g)2). What if the surrogate cannot be reached in a timely manner?
- Dr. Maurer brings up the statutory language about a dispensing pharmacist – not all facilities have access to this service. Dr. Maurer references Page 17 – b)1) as a clear reference as to how psychotropic medications are not defined. Clarification needed regarding the statutory language term, comprehensive assessment. Dr. Maurer believes this documentation doesn't need to be done prior to the medication be given. Dr. Maurer also takes issue with d) and the wording that informed consent must be obtained for each dose reduction. Requested clarification. Dr. Maurer states section f) Saying someone is capable or incapable is a legal issue.

As a physician or nurse, an opinion can be given. He suggests “whether an opinion has been given” be added. Dr. Maurer initiates discussion regarding informed consent form. Who will go over such a long list of side effects? Aimee Isham states the consent form is not part of the rules for now.

- Discussion regarding the “emergency situations” definition. Debra Bryars asked for the definition from a Medical Director. Dr. Maurer doesn’t have that, that would be good to reference.

#### **E. Discussion on 300.1230 – Direct Care Staffing**

- Discussion regarding the interpretation of skilled and intermediate care. Medicare definition is a good starting point, but the examples given are outdated. (page 26 A-J).
- Donna Ginther asks for consistency in examples given on pages 28 and 29; Page 30 h) & i) are contradictory; page 37 a) & b) are contradictory. Page 38 e) & f) – clarification requested. If a facility has already received a violation and been penalized, why request a waiver? Timing of waiver needs clarified. If waived requirement doesn’t apply to 10% deviation, why request? Also, if facility is notifying all in real time, why is the Department only updating the website once per month? Donna Ginther believes that should also be updated. Donna Ginther also asked what is meant by a license violation? Should there be a definition added? On page 39, Request for waiver – What is the Department wanting here? Would either like clarification or would like 5 & 7 removed. 8) Cost of extra or alternative staffing – What is considered cost of staffing? Why is this needed for an RN waiver? Would like 8 & 9 removed.
- To wrap up Donna Ginther has four main concerns:
  1. Definition section
  2. Waiver section
  3. Source of data & definitions of what constitutes benefits
  4. Occurrences (page 43 7) – These situations are out of our control and only last for a short period of time.
  5. Guidance on form
  6. Table – glad it was put back in but would like it to be reviewed, pieces are missing.

Question about Department’s next steps for these rules. Per Erin Conley, there is a statutory deadline of January 1. The Department will be moving forward to get comments from general public and file with Secretary of State and be published by January 1.

Donna Ginther states the Department made a unilateral decision in this draft - that what the General Assembly did regarding the term licensed nurse was not in the best interest of the residents and everyone involved. Donna Ginther moved to hold rules until February meeting. Matt Hartman seconded. Roll call vote: All approve, Caroline abstained. The Department will take this under advisement.

Dr. Maurer noted that due to time constraints he was unable to complete his comments about the Informed Consent Form.

Board Members suggested that the department adopt a fillable form for consent for Psychotropic Medication Administration.

#### **V. NEW BUSINESS**

Karen Christensen made a motion approving the 2020 meeting dates: February 20, May 21, August 20, and November 19; seconded by Dr. Labunski. Roll call vote taken with the following members voting yes: Dr. Labunski, Kevin Taylor, Donna Ginther, Dr. Maurer, Caroline Chapman. Donna Ginther abstained. Motion carried.

**VI. PUBLIC COMMENT**

N/A - None

**VII. ADJOURN**

Dr. Maurer moved that the meeting be adjourned. The meeting was adjourned at 12:28PM.